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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/813,420              | 03/30/2004  | Dana J. Orlich       | 1850.0              | 4773             |
| 22497                   | 7590        | 09/18/2006           |                     |                  |
| LARSON AND LARSON       |             |                      | EXAMINER            |                  |
| 11199 69TH STREET NORTH |             |                      | MCNALLY, DANIEL     |                  |
| LARGO, FL 33773         |             |                      | ART UNIT            | PAPER NUMBER     |
|                         |             |                      | 1733                |                  |

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                            |                     |  |
|------------------------------|----------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>     | <b>Applicant(s)</b> |  |
|                              | 10/813,420                 | ORLICH, DANA J.     |  |
|                              | Examiner<br>Daniel McNally | Art Unit<br>1733    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on March 30, 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>April 27, 2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is intended in claim 1, step (c). The claim recites “designed design pattern,” which appears to be a typographical error. For the purpose of examination the “designed design patter” is assumed be –desired design patter--.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trager [US-4427472] in view of Bersted et al. [US-5945215], Johnson [US-5531176], Schachter [US-4103634] and either one of Garr [US-6132821] or Kreckel et al. [US-5516581].

Trager discloses a method of preparing a decorative appliqu  comprising temporarily securing a fabric segment 42 or “fabric design pattern” to a background fabric 20 or “backing material” (column 5, lines 34-38), adhering the fabrics (column 6,

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lines 2-6), and sewing or “stitching” the fabric segment to the background fabric using stitches 44 shown in Figure 6 (column 5, lines 39-66). Trager does not disclose the backing material as a polymeric crease resistant material, using adhesive or “glue” to temporarily secure the fabrics, cutting the design from the backing material or applying a double sided tape to the back of the backing material.

Bersted et al. discloses a polymeric fabric used as a carpet backing material. Both backing materials require needling or “stitching;” Bersted requires the needling of carpet tufts into the backing and Trager requires stitching of thread though the backing. Bersted teaches the use of a polymeric material that is resistant to creasing as a backing material (column 24, lines 24-49).

Johnson teaches temporarily holding the appliquéd element or “fabric design pattern” to the fabric base material or “backing material” before sewing by using a rubber cement or “glue” (column 6, lines 4-17).

Trager discloses producing a single appliquéd at a time. It is desirable to produce multiple appliqués at once in order to increase the efficiency of the production process. Schachter discloses the manufacturing of textile crests comprising stitching a crest or “fabric design” to a backing material and cutting the individual crests from the backing material (column 2, line 57 – column 3, line 2).

Garr discloses a decorative wall adornment that can be removably secured to a wall using a double-sided adhesive element (column 6, lines 37-61). Kreckel et al. discloses a removal double-coated adhesive tape used for mounting wall hangings (column 6, lines 8-13).

It would have been obvious to one of ordinary skill in the art at the time of invention to use a polymeric crease resistant backing material as Trager's background fabric as taught by Bersted in order to improve the strength of the backing, and to secure the Trager's fabric materials together as taught by Johnson in order to prevent wrinkling of the fabric segment during sewing, and to cut the backing material of Trager as taught by Schachter in order to manufacture multiple appliqués at once, and to include a double sided tape on the back of Trager's backing material as taught by Garr and Kreckel in order to removably secure the appliquéd to the wall without marring the wall surface.

With regard to claim 4, Bérsted et al. discloses the use of propylene polymer as a crease resistant backing material (column 24, lines 24-49).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above in paragraph 4 above, and further in view of Place et al. [US-4885925].

Garr and Kreckel disclose a method of applying a double-sided adhesive to the backing material of the decorative appliquéd. Garr and Kreckel do not disclose removing and replacing the used double-sided tape. Place et al. suggests removing dirty double sided tape by peeling and replacing with a fresh strip of doubled sided tape (column 3, lines 7-16). It would have been obvious to one of ordinary skill in the art at the time of invention to remove and replace the double sided tape of the appliquéd as made above in paragraph 4, as taught by Place in order to improve the tackiness of a surface that has become dirty during use.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above in paragraph 4, and further in view of Park et al. [US-5309519].

Trager, as modified, discloses a method of preparing a decorative appliqu  as discussed above in paragraph 4. Trager does not disclose the mounting of a voice or music chip on the decorative appliqu . Park et al. teaches the mounting a device 520 for supplying an audio-frequency signal to a banner 500 or “decorative design” as shown in Figures 5-7 (column 5, line 42- column 6, line 41). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Trager’s decorative appliqu  by mounting an acoustic device as taught by Park in order to increase the novelty of the decoration. Park suggests mounting by adhesive and the inclusion of a cover film. It is known in the art to also use stitching as a means for mounting.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above in paragraph 4, and further in view of Zerilli [US-3226732].

Trager, as modified, discloses a method of preparing a decorative appliqu  as discussed above in paragraph 4. Trager does not disclose fabric material as cotton fabric. Zerilli discloses an ornamental appliqu  using cotton material (column 2, lines 37-49). It would have been obvious to one of ordinary skill in the art to use a cotton material for Trager’s fabric as taught by Zerilli in order to improve the hand of the appliqu .

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel McNally whose telephone number is (571) 272-2685. The examiner can normally be reached on Monday - Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JEFF H. AFTREUT  
PRIMARY EXAMINER  
GROUP 1300

  
Daniel McNally  
Examiner  
Art Unit 1733

dpm  
September 11, 2006